

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE		EFFECTIVE DATE 05/18/2020	NUMBER 01.04.111
SUBJECT TRIBAL CONSULTATION		SUPERSEDES NEW	
		AUTHORITY MCL 791.203; Executive Directive 2019-17	
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POLICY STATEMENT:

The Michigan Department of Corrections (MDOC) shall engage in a process of tribal consultation to ensure meaningful and mutually beneficial communication and collaboration between the MDOC and the twelve federally recognized Indian tribes located in Michigan on all matters that may affect the tribes.

POLICY:

DEFINITIONS

- A. Tribes – One or more of the twelve federally-recognized sovereign Indian tribes located in Michigan.

GENERAL INFORMATION

- B. Any consultation requirements outlined in this policy shall only take place when a new or revised policy directives, operating procedures, or Director’s Office Memorandums (DOM) has a direct effect on any one of the twelve federally recognized sovereign Indian tribes located in Michigan. The consultation requirements do not apply to any issues related to individual prisoners or an individual prisoner’s religious affiliation.
- C. The MDOC shall consult with Michigan’s federally recognized Indian tribes prior to taking an action of implementing new or revised policy directives, operating procedures, or DOM that may affect one or more of these tribes.
- D. The Special Activities Coordinator, in the Operation Division, Correctional Facilities Administration (CFA) shall serve as the Tribal Liaison for the MDOC. This individual’s responsibilities are described in Executive Directive 2019-17 and include coordination of the MDOC’s interaction with the tribes and leading and implementing any tribe consultation as described in this policy directive.
- E. The Tribal Liaison is responsible for ensuring MDOC staff who have direct interactions with tribes or work on matters that have direct implications for tribes have access to annual training materials provided by the Governor’s advisor on tribal-state affairs.

IDENTIFICATION

- F. The first step to the consultation process is the identification by the MDOC that a new or revised policy directive, operating procedure, or DOM that may affect one or more of the tribes. This determination may be made by the MDOC, the affected tribe(s), or tribal partnership groups.
- G. When implementing a new or revised policy directive, operating procedure, or DOM, the MDOC staff shall evaluate whether that activity may affect tribal interests such that consultation would be appropriate. The Policy Section Manager in the Office of Legal Affairs, Budget and Operations Administration (BOA) shall notify the Tribal Liaison anytime they believe a new or revised policy directive, operating procedure, or DOM may warrant tribal consultation.
- H. A tribe or tribal partnership group may initiate the consultation process by contacting the Tribal Liaison, identifying the policy directive, operating procedure, or DOM that may warrant consultation. The Tribal Liaison shall evaluate the policy directive, operating procedure, or DOM to determine if it warrants consultation.

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NOTIFICATION

- I. Once a determination has been made that a new or revised policy directive, operating procedure, or DOM warrants consultation, the Tribal Liaison shall promptly notify the tribe(s) potentially affected by the policy directive, operating procedure, or DOM. The notification shall include sufficient information to permit the potentially affected tribe(s) to make an informed decision regarding whether to proceed with consultation and must apprise the tribe(s) of how to provide input regarding the activity. Notification may occur by US Mail, e-mail, telephone, or other agreed-upon means, depending on the nature of the activity and the number of tribes potentially affected. The Tribal Liaison shall make every effort to honor tribal preferences regarding the specific method of notification, subject to applicable time and resource constraints.

INPUT

- J. The MDOC shall consider all input received from the tribe(s) regarding the new or revised policy directive, operating procedure, or DOM. The Tribal Liaison shall coordinate with the tribe(s) to ensure the participating tribe(s):
 1. Receive all information necessary to provide the MDOC with meaningful input regarding the policy directive, operating procedure, or DOM. The Tribal Liaison shall consult with the MDOC's Freedom of Information Act (FOIA) Coordinator to determine whether information requested by the tribes may be released pursuant to this consultation process.
 2. Are afforded due opportunity to discuss that input with the MDOC.
 3. Are apprised of any significant changes to the policy directive, operating procedure, or DOM, or any other issues that may arise as to it, over the course of the consultation process.
 4. Are afforded due opportunity to provide to and discuss with the MDOC any additional input the tribe(s) may have regarding those changed circumstances.
- K. The Tribal Liaison shall forward all input received to the Policy Section Manager.
- L. Input received from any tribe is not binding on the MDOC and the MDOC is under no obligation to make any changes to any policy directive, operating procedure, or DOM based on the input provided by the tribe(s).

FOLLOW-UP

- M. The Policy Section Manager shall provide the Tribal Liaison with feedback on how the tribe's input was considered in the final decision on the new or revised policy directive, operating procedure, or DOM. The Tribal Liaison shall communicate this feedback to the most senior tribal official involved in the consultation in the form of a written communication.

PROCEDURES

- N. If necessary, to implement requirements set forth in this policy directive, Wardens and the Administrators shall ensure that procedures are developed or updated.

AUDIT ELEMENTS

- O. A Primary Audit Elements List has been developed and is available on the Department's Document Access System (DAS) to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 05/05/2020